

REMARKS/ARGUMENTS

This application has been amended so as to place it in condition for allowance at the time of the next Official Action.

The Official Action states that the numbering of claims is not in accordance with 37 CFR §1.126, in light of the presence of two different claims each numbered 8. The Official Action states that claims 8 (2nd occurrence), 9, and 10 have been renumbered as claims 9-11, respectively.

The Official Action states that the title of the invention is not descriptive. Please note that applicants have amended the title to more clearly describe the present invention.

The Official Action rejects claims 1-11 under 35 USC §103(a) as being unpatentable over TAKAHASHI et al. 2003/0025856 in view of applicants' admitted prior art. Reconsideration and withdrawal of this rejection are respectfully requested for the following reasons:

At the outset, applicants note that the applied TAKAHASHI et al. published U.S. application is not prior art with respect to the present application.

The TAKAHASHI et al. application was filed as the national stage of PCT application No. PCT/JP01/02203. The front page of the published TAKAHASHI et al. application states that the PCT application was filed November 21, 2001. However, this appears to be a typographical error, as the published PCT

application itself identifies a publication date of March 21, 2001.

Such international application was published September 27, 2001 as WO 01/71395 A1, the front page of which is enclosed. As is evident from the included front page, the international application was not published in the English language.

Accordingly, the applied U.S. published application was filed as the national stage of an international application filed after November 29, 2000, and the international application was not published in English. Given these facts, neither the published international application, the present published U.S. application, nor any U.S. patent that may issue from the published U.S. application is or ever will be §102(e) prior art. See, e.g., Example 5, Examination Guidelines for 35 U.S.C. §102(e), as amended by the American Inventor is Protection Act of 1999, and further amended by the Intellectual Property and Tiny Technology Technical Amendments Act of 2002, and 35 U.S.C. §102(g) (Revised).

The PCT application was published September 27, 2001, and the earliest possible publication date of the first Japanese priority application would have been September 23, 2001. Given the January 14, 2002 U.S. filing date of the present application, neither of such publications represents §102(b) prior art.

Either the published Japanese application or the published international application could constitute prior art under 35 USC §102(a) if such publication were made prior to invention by the present applicants. The present applicants can prove a date of invention no later than the filing date of the earlier Japanese application whose priority is claimed by the present application by perfecting such priority claim.

Accordingly, applicants include herewith a verified translation of the Japanese priority application, such Japanese application having a filing date of January 12, 2001. Such date of filing proves invention prior to the earliest possible §102(a) date related to the reference.

As neither the applied published U.S. application nor any of the related Japanese or international applications are available as prior art, reconsideration and withdrawal of the present rejection are respectfully requested.

Entry of the above amendments is earnestly solicited. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional
fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted,

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